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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 RICHARD PLECHNER,

7 Plaintiff,

8 v.

9 ROB McKENNA (Attorney General for  
10 the State of Washington), STATE OF  
11 WASHINGTON DEPARTMENT OF  
12 CORRECTIONS, ELDON VAIL  
13 (Secretary), PAT GLEBE  
(Superintendent of SCCC), DOUG  
WADDINGTON (Superintendent of  
WCC), and RON FRAKER  
(Superintendent of CBCC),

14 Defendants.

No. C11-5544 RBL/KLS

ORDER DENYING MOTION FOR THE  
APPOINTMENT OF COUNSEL

15 This civil rights action has been referred to United States Magistrate Judge Karen L.  
16 Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Before the Court is  
17 Plaintiff's motion for the appointment of counsel. ECF No. 8. Having carefully reviewed  
18 Plaintiff's motion and balance of the record, the Court finds, for the reasons stated below, that  
19 Plaintiff's motion should be denied.  
20

21 **DISCUSSION**

22 No constitutional right exists to appointed counsel in a § 1983 action. *Storseth v.*  
23 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). *See also United States v. \$292,888.04 in U.S.*  
24 *Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is  
25 discretionary, not mandatory.”) However, in “exceptional circumstances,” a district court may  
26 appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28

1 U.S.C. § 1915(d)). *Rand v. Roland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *overruled on other*  
2 *grounds*, 154 F.3d 952 (9th Cir. 1998) (emphasis supplied.) To decide whether exceptional  
3 circumstances exist, the court must evaluate both “the likelihood of success on the merits [and]  
4 the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal  
5 issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (quoting  
6 *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts that show he  
7 has an insufficient grasp of his case or the legal issue involved and an inadequate ability to  
8 articulate the factual basis of his claim. *Agyeman v. Corrections Corp. of America*, 390 F.3d  
9 1101, 1103 (9<sup>th</sup> Cir. 2004).

11 That a *pro se* litigant may be better served with the assistance of counsel is not the test.  
12 *Rand*, 113 F.3d at 1525. Moreover, the need for discovery does not necessarily qualify the issues  
13 involved as “complex.” *Wilborn*, 789 F.2d at 1331. Most actions require development of further  
14 facts during litigation. But, if all that was required to establish the complexity of the relevant  
15 issues was a demonstration of the need for development of further facts, then practically all cases  
16 would involve complex legal issues. *Id.*

18 Plaintiff filed his complaint *pro se* and has demonstrated an adequate ability to articulate  
19 his claims *pro se*. This case is not complex. Plaintiff claims that he has been deprived of  
20 newspapers, magazines, television and radio, and has also been denied proper care for his  
21 medical problems and mental health issues, family visits, educational and/or vocational  
22 programs, envelopes, and access to a telephone to contact his attorney. From the grievances  
23 attached to his complaint, it appears that Plaintiff claims to suffer from hearing loss, degenerative  
24 disc and bone disease and arthritis. He also alleges that he has been limited to 5 grievances, thus  
25 limiting his right to seek redress. ECF No. 5.

1 Plaintiff states that he requires the appointment of counsel because he has mental and  
2 medical health problems such that he is disabled. Based on the information submitted by  
3 Plaintiff, however, the Court is unable to determine whether any such disabilities hinder  
4 Plaintiff's ability to adequately articulate his claims. If Plaintiff needs additional time to  
5 prosecute this matter, he should provide the Court with documentation of his medical conditions  
6 so that the Court may make a determination as to any additional time and/or assistance that may  
7 be required in this case.  
8

9 The Court finds no exceptional circumstances in this case. While Plaintiff may not have  
10 vast resources or legal training, he meets the threshold for a *pro se* litigant. Concerns regarding  
11 investigation and discovery are also not exceptional factors, but are the type of difficulties  
12 encountered by many *pro se* litigants. There are also numerous avenues of discovery available to  
13 the parties through the Federal Rules of Civil Procedure during the litigation process.  
14 Moreover, despite claiming in conclusory fashion that his case has merit, Plaintiff has not shown  
15 a likelihood of success on the merits.  
16

17 Accordingly, Plaintiff's motion for the appointment of counsel (ECF No. 8) is **DENIED**.  
18 The Clerk is directed to send copies of this Order to Plaintiff.

19 DATED this 12th day of September, 2011.

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21   
22 Karen L. Strombom  
23 United States Magistrate Judge  
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